

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

ARTHUR KIRBY, # N-54069

Plaintiff,

vs.

UNKNOWN PARTY EYE DOCTOR,

Defendant.

Case No. 15-cv-502-MJR

MEMORANDUM AND ORDER

REAGAN, Chief District Judge:

This matter is before the Court for case management. On May 4, 2015, following the Memorandum and Order entered in *Kirby v. Spiller, et al.*, Case No. 15-cv-3884-SMY-PMF (Doc. 1 in the instant case), this matter was severed from the original case. Plaintiff was directed to notify the Court by June 8, 2015, if he did not wish to proceed with this severed claim for deliberate indifference to his serious eye condition, in order to avoid incurring an additional \$350.00 filing fee in this new case. That deadline has now passed, and Plaintiff has not notified the Court of any intent to dismiss the instant case, nor has he taken any action to identify the Unknown Party Eye Doctor Defendant.

Because Plaintiff did not choose to voluntarily dismiss this case, it shall remain pending, and Plaintiff is now responsible for paying the filing fee for this severed matter. His motion for leave to proceed *in forma pauperis* (“IFP”) (Doc. 3) shall be addressed in a separate order.

Ordinarily, the Court would order service on the Defendant at this juncture. However, Plaintiff has not identified the eye doctor who gave him the wrong medication in 2014.

As noted in the May 4 Order (Doc. 1), it is Plaintiff's responsibility to provide this individual's name and service address to the Court so that this matter may proceed. To that end, Plaintiff shall be directed to file, at his option, either a motion to substitute party identifying the eye doctor by name, or an amended complaint. An amended complaint should also include the eye doctor's name, and will allow Plaintiff to flesh out and clarify his factual allegations as to the misconduct of the Defendant.

IT IS THEREFORE ORDERED that, within 60 days of the date of this order (on or before August 31, 2015), Plaintiff shall file a document to identify the Unknown Party Eye Doctor by name. This may be either a motion to substitute party, or an amended complaint.

If Plaintiff chooses to submit an amended complaint, it is strongly recommended that he use the form designed for use in this District for civil rights actions. He should label the pleading "First Amended Complaint" and include Case Number 15-cv-502-MJR. The amended complaint shall include the deliberate indifference claim against the Unknown Defendant Eye Doctor, as designated in the Order at Doc. 1. It shall not include Counts 1 or 2 that remain pending in Case No. 15-cv-384-SMY-PMF. If any new claims are added against the Unknown Defendant Eye Doctor, Plaintiff shall present the new claim(s) in separate count(s). Plaintiff should attempt to include the facts of his case in chronological order, inserting Defendant's name where necessary to identify his actions and the dates of any material acts or omissions.

An amended complaint supersedes and replaces the original complaint, rendering the original complaint void. *See Flannery v. Recording Indus. Ass'n of Am.*, 354 F.3d 632, 638 n.1 (7th Cir. 2004). The Court will not accept piecemeal amendments to the original complaint. Thus, the First Amended Complaint must stand on its own, without reference to any other pleading. Should the First Amended Complaint not conform to these requirements, it shall be

stricken. Plaintiff must also re-file any exhibits he wishes the Court to consider along with the First Amended Complaint.

No service shall be ordered on the Defendant until after the Court completes its § 1915A review of the First Amended Complaint.

In order to assist Plaintiff in preparing his amended complaint, the Clerk is **DIRECTED** to mail Plaintiff a blank civil rights complaint form.

IT IS SO ORDERED.

DATED: July 1, 2015

s/ MICHAEL J. REAGAN
Chief United States District Judge